

Arkansas Burial Association Board

MINUTES

Wednesday, October 24, 2012, 11 am

101 East Capitol, Little Rock, AR

Conference Room C

Board Meeting

Vice-Chairman Sumner Brashears called the meeting to order. Members present were: Dr. Jacki McCray, Pete Sims, Scott Berna, Steve Ballard, Normal Gilchrest, and Sammie "Turner" James. Members absent were: David Powell, Jr. and Melanie Posey. Staff present: Amy S. Goode, Executive Secretary, James R. Brooke, Auditor and assistant attorney general Mark Ohrenberger, Board Counsel.

1. Introduction of the Board and guests, meeting called to order

2. Administrative

Motion made by Gilchrest to approve the September 2012 minutes as written, seconded by Berna, all in favor. Motion carried.

Motion made by Sims to approve the September 2012 trial balance and DF&A financial documents, seconded by McCray, all in favor. Motion carried.

3. Herndon-Cornelius Burial Association

This was a continuance from the last meeting. The Board had extended the repayment time an additional month after the Board had realized they had not been dealing with the secretary-treasurer Scott Brown. Attorney Ohrenberger questioned Ms. Pharr that she was here today without council Mr. Coleman that had appeared with her at the last meeting. Attorney Ohrenberger wanted to clarify that she did in fact want to proceed without council and she confirmed that she did. Since the last meeting, Ms. Pharr stated that they have made substantial efforts to repay the money. As of today's date \$12,500 has been repaid and \$7,300 of that being in the last month. She felt she was making an effort to pay back the money. She is asking the Board for two more months and will have completely paid back the \$25,000. Ms. Pharr further stated that Scott Brown was the secretary-treasurer and after he discovered she had transferred the money to her funeral home; he told her that she would need to pay the money back. Ms. Pharr further explained that they have never had any issues prior to this with either burial association they operate. Ms. Pharr gave the Auditor the documentation where the money as of today's date had been repaid.

Motion made by Berna to grant another extension with a progress report at the next Board meeting, seconded by Sims, all in favor. Motion carried.

Secretary-Treasurer Scott Brown stated that they have put a policy in place that nothing is transferred or spent without the secretary-treasurer's knowledge. Mr. Brown has plans to set-up a policy with the bank to not allow transfers without secretary-treasurer signature.

4. Church Burial Association

This was a continuance from the last meeting where as the Board had rejected the Consent Agreement. Warren Strickland was unable to appear today due to illness. Mrs. Strickland did provide a doctor's note.

The Auditor updated the Board and explained while preparing the report and completing the audit he found the shortage. It was explained to him by Mrs. Strickland that money was taken home and a caretaker for Mr. Strickland was coming into the home taking money, jewelry, and small items of value. This person is now in jail. Mr. Brooke explained the money should have never left the funeral home except to the bank. There is a combined shortage of approximately \$19,000 between old and new.

Mrs. Strickland stated that some money was recovered in the forms of checks under the refrigerator. Berna clarified that this was a problem ongoing for a period of time.

Brashears made clear that none of the shortage has been replaced and there is no chance of recovering funds from the individual that stole it. This is the member's money and we need the money replaced on their behalf. Mrs. Strickland confirmed that to be true. The Board will have the assistant Attorney General to review the bond to determine if it will pay.

McCray stated they would need to have a plan to repay the money back by the next meeting. The Board also stated that the Bond did not need to be changed until clarification could be resolved on the officers.

Motion made by Ballard that we issue a Board Order to take control of accounts and by next meeting find out whether bond will pay to see what shortage remains, seconded by Berna, all in favor. Motion carried.

Motion made by McCray to delay the approval of the election of officers of the Church Burial Association, seconded by Berna, all in favor. Motion carried.

5. *Stuttgart Home Burial Association – Default Judgment*

Executive Secretary gave the Board the background of the Stuttgart Home Burial and Javier Buck as secretary-treasurer. There were undocumented claims that resulted in approximately \$22,150. Mr. Buck explained that he thought they had given the Board all that was needed to get credit for those claims. Mr. Brooke stated that we had contracts that showed \$500, but the amount was not actually deducted from the balance. There was \$27,000 in claims and Mr. Brooke was able to document and back-up \$5,000 of those.

The Board can look at an agreement plan between Mr. Buck and the Board.

Motion made by Sims to turn default judgment over to Attorney General Office to work out a method of payment with Mr. Buck. The Attorney will look to see if the Bond will satisfy any of this debt.

Motion withdrawn by Sims.

Motion made by Ballard that restitution is made by the next meeting or if not Mr. Buck needs a plan to present to the Board how restitution will be made, seconded by Berna, all in favor. Motion carried.

Hank McNabb was in attendance concerning the most recent change in the contract funeral home. Mr. McNabb stated that he does not take the 25% operating fee. The association has enough money to pay all claims at 100% and he will pay all claims at 100%. Mr. McNabb is working with Chris Ross with C. D. Ross Funeral Home trying to collect names of all the members. Mr. McNabb stated he worked with the secretary at Richardson Memorial for about a month when the initial transfer happened, and since that time changed the contract funeral home because he could not get any cooperation from Richardson.

Gilchrest stated that he gets policyholders coming to him to pay their Stuttgart Home assessments. Mr. Gilchrest stated he would help get those names to Mr. McNabb.

6. *Yell County Burial*

Executive Secretary updated the Board that Mr. Denis Haley that handles Fidelity Standard Life whom assumed Wonder State Life and acquired the burial association with that assumption; had thought he would continue to

operate the association like the Insurance Department had done. Brashears stated that the Board does not have the authority to allow an association to operate without a secretary-treasurer or operate out of state. Mr. Brooke stated that he would be able to monitor and prepare reports with records Mr. Haley is required to forward to the Board office. If the Board can look past the records being out-of-state, then he could work with Mr. Haley. Members have paid their insurance and association assessment on the same check for years and keeping them together would be the best for the members. The Board suggested the best thing Fidelity could do was to reinsure the policyholders and also stated that the Board can not authorize the association to operate without a secretary-treasurer.

If they had a secretary-treasurer we could work with the association on where they are located. Executive Secretary is to notify Mr. Haley that they will have to assume it or they would have to elect a secretary-treasurer by next meeting.

7. Complaints

B. Dwight Olmstead, Secretary-Treasurer, R. W. Olmstead Burial Association V. Joann Olmstead, Olmstead Funeral Home. Mr. Olmstead states that Ms. Olmstead has kept a copy of the records of the Association after the Board told her to turn over those records.

Discussions began about the transferring of records from associations. Ballard stated since the issue appears to be a problem that copies of the records were kept; then associations that transfer should have to have sign an affidavit that all records were transferred or a final audit should take place to verify that has happened. The Board did have to specifically tell Olmstead to quit collecting premiums.

Attorney Ohrenberger stated that it is apparent the Board has made an order and the apparently stated to turn over all the records. The question is how the order gets interpreted. There is not a rule that says one way or another. The Board has the ultimate decision on how to interpret that order. When the Board gets any complaint they have to look at it and determine if there has been a violation of statute, rule, or a previous Board order. The complaint is not a violation of a statute or rule. If we look at the previous order then we can decide whether or not we need to have a hearing.

The Board directed the Executive Secretary to review the minutes to determine what the Board's directive was to Ms. Olmstead concerning the records of the association and report back to the Board at the next meeting.

Motion made by Berna to delay any action until staff has time to further study the order and report back at the next meeting, seconded by Ballard, all in favor. Motion carried.

8. Board Discussion

a. Health Subcommittee – Executive Secretary explained to the Board that the survey was completed and submitted to the committee. Executive Secretary stated that this Board would not fall under health and public safety. Executive Secretary will keep the Board up to date on the matter.

9. Attorney Updates

a. Drew County Burial Association update

Attorney Mark Ohrenberger updated the Board that the court has in fact in the Drew County case entered an order allowing the members that Mr. Horne represents to intervene and pursue their complaint against the Burial Association officers. Mr. Horne's clients are now in the case, along with Mr. Harris's clients, and the Board. Dispositions will be going on in late November of the officers and Mr. Horne's clients. Set for the courts to make decision on December 5th.

10. Next Meeting

The Board decided to meet in conjunction with the Club of Burial Associations on Tuesday, December 4th, 2012 @ 11:30.

11. *Adjournment*

Motion made by Sims to adjourn since there was no further business to discuss, seconded by Ballard, all in favor. Motion carried.

ATTEST:

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